

**§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.**

(a) Authorized On-Site Wastewater Evaluator. – An individual licensed as a soil scientist pursuant to Chapter 89F of the General Statutes and further certified under conditions developed and administered by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board may, at the direction of the owner of a proposed wastewater system, prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system in accordance with this section and rules adopted pursuant to this section. An Authorized On-Site Wastewater Evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system who wishes to use an Authorized On-Site Wastewater Evaluator shall submit a notice of intent to construct a wastewater system using an Authorized On-Site Wastewater Evaluator to the local health department with jurisdiction over the location of the proposed wastewater system. The Department of Health and Human Services shall develop a common form for use as a notice of intent to construct that includes all of the following:

- (1) The owner's name, e-mail address, mailing address, and phone number.
- (2) The Authorized On-Site Wastewater Evaluator's name, certification number, mailing address, e-mail address, and telephone number.
- (3) The physical location of proposed site.
- (4) Proof of errors and omissions, liability, or other insurance adequate for the proposed wastewater system.
- (5) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.
- (6) The type of wastewater system proposed.
- (7) The estimated wastewater flow and wastewater characteristics.
- (8) Any proposed landscape, site, drainage, or soil modifications.
- (9) An evaluation of soil conditions and site features that is conducted and signed and sealed by a licensed soil scientist or for geologic or hydrogeologic conditions by a licensed geologist.
- (10) A plat, as defined in G.S. 130A-334(7a), or a site plan, as defined in G.S. 130A-334(13a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether the notice of intent to construct required pursuant to subsection (b) of this section is complete within five business days after receiving the notice of intent to construct. A determination of completeness means that the notice of intent to construct includes all of the required components. If the local health department determines that the notice of intent to construct is incomplete, the local health department shall notify the owner and list the information needed to complete the notice. The owner may then submit additional information to the local health department to cure the deficiencies in the initial notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within five business days after the department receives the additional information. If the local health department fails to act within any time period set out in this subsection, the owner may treat the failure to act as a determination of completeness. The owner shall be able to apply for the building permit for the project upon the decision of completeness of the notice of intent by the local health department or if the local health department fails to act within the five business day time period.

(d) Soil and Site Evaluation, Construction, and Activities. –

- (1) The Authorized On-Site Wastewater Evaluator shall use standards incorporated in recognized soil and siting practices in North Carolina. The

evaluation and findings shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). An Authorized On-Site Wastewater Evaluator shall not form a direct business relationship with any technology that may result in a conflict of interest.

- (2) The Authorized On-Site Wastewater Evaluator shall prepare a signed and sealed statement of special inspections that includes the following items:
  - a. The materials, systems, components, and work subject to special inspections and testing.
  - b. The type, frequency, and extent of each special inspection and each test. For the purposes of this subdivision, "special inspection" means any continuous or intermittent inspection or visitation performed by the Authorized On-Site Wastewater Evaluator at the construction site on behalf of the owner.
- (3) The Authorized On-Site Wastewater Evaluator shall assist the owner in the selection of an on-site wastewater system contractor who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.
- (4) The Authorized On-Site Wastewater Evaluator may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.
- (5) Where the Authorized On-Site Wastewater Evaluator's designs, plans, and specifications call for the installation of a conventional wastewater system, those designs, plans, and specifications shall allow for the installation of an Accepted system in lieu of a conventional system in accordance with the Accepted system approval.

(e) Responsibilities of the On-Site Wastewater System Contractor. – The on-site wastewater system contractor retained by the site owner shall do all of the following:

- (1) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.
- (2) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the Authorized On-Site Wastewater Evaluator.
- (3) Submit a signed and dated statement of responsibility to the owner of the wastewater system, prior to commencement of work, that contains acknowledgement of the requirements of the on-site wastewater system specified by the Authorized On-Site Wastewater Evaluator.

(f) No Public Liability. – The Department, the Department's authorized agents, and local health departments shall have no liability for wastewater systems developed by the Authorized On-Site Wastewater Evaluator; however, nothing in this section shall relieve the Department, the Department's authorized agents, and local health departments from any of their other obligations under State law or administrative rule.

(g) Inspections, Construction Observations, and Reports. –

- (1) A local health department may, at any time, conduct a site visit of the wastewater system.
- (2) An Authorized On-Site Wastewater Evaluator shall make periodic visits to the site to observe the progress and quality of the construction.
- (3) An Authorized On-Site Wastewater Evaluator may employ independent inspectors to observe and direct the construction of the wastewater system. Authorized On-Site Wastewater Evaluators shall be liable for any errors or omissions made by independent inspectors they employ or contract with.

- (4) All construction and inspection reports shall be signed by the authorized inspector or Authorized On-Site Wastewater Evaluator. Copies shall be furnished to the owner and the certified contractor and shall be included in the submittal package to the local health department.
- (h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater system from complying with all rules adopted by a local health department pursuant to G.S. 130A-335(c) that are in effect at the time the owner submits the notice of intent to construct described in subsection (b) of this section. The local health department shall notify the owner of the wastewater system of any issues of compliance related to such modifications or additions.
- (i) Operation and Management. –
  - (1) An Authorized On-Site Wastewater Evaluator shall establish a written operation and management program based on the rules established for similar wastewater systems and shall provide this information to the owner of the system.
  - (2) If necessary to comply with rules adopted by the Commission, the owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
  - (3) The owner shall be responsible for the continued adherence to the operations and management program established by the Authorized On-Site Wastewater Evaluator pursuant to subdivision (1) of this subsection.
- (j) Post-Construction Conference. – The Authorized On-Site Wastewater Evaluator shall hold a post-construction conference with the owner, the certified contractor, the certified water pollution control system operator, if any, and representatives from the local health department. The post-construction conference shall include start-up and any required verification of system components.
- (k) Required Documents. – At the post-construction conference, the Authorized On-Site Wastewater Evaluator shall provide the owner with the following documents:
  - (1) A signed and sealed copy of reports on soil conditions and site features, layouts, drawings, specifications, justification on any proposed design daily flow reductions, and any special inspection reports or corrections made during the construction of the system.
  - (2) The owner's operation and management program established for the specific wastewater system under subdivision (1) of subsection (i) of this section.
  - (3) Any reports and findings related to the evaluation, siting, and construction of the wastewater system.
- (l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner shall sign and notarize a document confirming acceptance and receipt of the report. The owner shall then submit the following to the local health department:
  - (1) A copy of the Authorized On-Site Wastewater Evaluator's report.
  - (2) A copy of the operations and management program established for the system by the Authorized On-Site Wastewater Evaluator.
  - (3) The fee established pursuant to subsection (n) of this section.
  - (4) A notarized letter that documents the owner's acceptance of the system.
- (m) Authorization to Operate. – Within five business days of receipt of the required documents and fees described in subsection (l) of this section, the local health department shall issue the owner an authorization to operate confirming all the requirements of this section have been met and all rules adopted by the Commission pertaining to nonengineered on-site wastewater systems have been complied with.
- (n) Fees. – The local health department may assess a fee for the system developed by the Authorized On-Site Wastewater Evaluator of up to thirty percent (30%) of the cumulative total

of the fees established for similar systems permitted by the local health department. The fee shall only be used by the local health department in support of its work pursuant to duties established by this section.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change of ownership of the site for the wastewater system, provided both the site for the wastewater system and the type of facility the system serves are unchanged.

(p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized On-Site Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified water pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be subject only to the disciplinary authority of their individual certifying boards.

(q) Rule Making. –

(1) The Commission shall have the power to adopt rules to implement the provisions of this section.

(2) Notwithstanding any provision of law to the contrary, the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall have the exclusive authority to promulgate rules regarding certification of Authorized On-Site Wastewater Evaluators where review and seal of a professional engineer is not necessary pursuant to this section.

(r) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services by January 1, 2020, and annually thereafter, on the program established under this section. The Department shall specifically include the efficiency and effectiveness of the program developed under this section and whether the program aided in reducing the length of time in issuing permits. The Department shall obtain activity reports from the local health departments showing the wastewater systems developed under this section. The annual report shall include any suggestions for the improvement of this section, including adequate and appropriate insurance coverage, operator reporting requirements, or fee allowance. (2019-151, s. 14.)